

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1388 of 2013

IN

Civil Writ Jurisdiction Case No. 8791 of 1996

With

Interlocutory Application No. 7806 of 2013

In

Letters Patent Appeal No.1388 of 2013



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Bierndra Kumar Sinha S/O Late Jamuna Prasad, Resident of Village- Amirganj,
P.O- Mokhtarganj, P.S- Rajgir, District- Nalanda at Biharsharif.

.... Appellant-Petitioner

Versus

1. The State of Bihar.
2. The Collector and District Magistrate, Patna.
3. The Establishment Deputy Collector, Patna.
4. The Sub- Divisional Officer, Sadar, Patna.
5. Suraj Mohan Prasad, Clerk/Typist, Collectorate, Patna.

.... Respondents-Respondents

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Rajeev Kumar Singh
Mr. Navjot Yeshu
For the Respondent/s : Mrs. Nivedita Nirvikar, GA 10.
Mr. M D Singh, AC to GA 10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-01-2015

This Letters Patent Appeal is preferred by the petitioner in CWJC No. 8791 of 1996 feeling aggrieved by the dismissal thereof on 4.11.2010.

The writ petition was filed with a prayer to direct the respondents to regularize the services of the appellant in the establishment of the Collectorate, Patna, as clerk-cum-typist. It was

pleaded that he was engaged as clerk for the first time on daily wages in the year 1985 and though he was being paid salary from time to time, his service was not regularized. He cited some instances of alleged regularization of services of the employees who were said to have been engaged on daily wages, subsequent to him.

The respondents filed counter affidavit opposing the writ petition. It was mentioned that the services of the appellant were dispensed with, effective from 31.10.1991 and feeling aggrieved by that he filed CWJC No. 4485 of 1995 praying for the relief for payment of wages as well as for regularization; and that through order dated 12.12.1995 he was granted partial relief as regards the arrears of wages by this Court, but the claim for regularization was rejected. Through his order dated 4.11.2010 the learned Single Judge dismissed the present CWJC No. 8791 of 1996 on the ground that the writ petition has become infructuous. Hence this appeal.

Heard Mr. Rajeev Kumar Singh, learned counsel for the appellant and Mrs. Nivedita Nirvikar for the respondents.

The specific prayer made in the writ petition is for regularization of the services of the appellant. It is not in dispute that he was engaged on daily wages in 1985. The question of considering the plea would arise if only he was in service, even on daily wages, by the time the writ petition was filed. The petitioner was completely silent as to the state of affairs, that was prevailing as on the date of filing of the present writ petition. It is not in dispute that the appellant himself filed CWJC No. 4485 of 1995 claiming the relief for regularization. The learned Single Judge who heard that writ petition observed under the order dated 12.12.1985 as follows:-

“As regards the question of regularization, having regard to the fact that the petitioner’s employment was on a casual basis, and was discontinued after 31.10.91, the claim cannot be

considered. In any event, regularization cannot be granted in such cases unless there be a scheme for regularization, and all cases are considered in accordance with such scheme.”

The order in the said writ petition has become final. Neither any appeal was filed nor any review was sought on the basis of the subsequent development. That being the case, there is absolutely no basis for the petitioner to claim the relief for regularization of his service. Though the present writ petition was dismissed on the ground of delay and non-prosecution on behalf of the petitioner, we do not find any substance on merits also to entertain this appeal.

Appeal is dismissed.

Interlocutory Application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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